



Deposition of:
Naomi Sinclair

May 11, 2021

In the Matter of:
**Flowers, Jobbiev. Electrolux North
America, Inc**

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1 P R O C E E D I N G S

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3 NAOMI DERRICE SINCLAIR,

4 having been first duly sworn, was examined and
5 testified as follows:

6 EXAMINATION

7 BY MS. GESSNER:

8 Q Good morning, Ms. Sinclair. My name is
9 Michelle Gessner. We met before. And I represent
10 Mr. Flowers in this case against Electrolux.

11 For the record, would you please state
12 your full name.

13 A Naomi Derrice Sinclair.

14 Q What is your address?

15 A 1509 Scarborough Circle, Concord, North
16 Carolina 28205.

17 Q Is that the address where you're located
18 right now?

19 A Yes.

20 Q What's your telephone number?

21 A (770) 820-1634.

22 Q What is your date of birth?

23 A Six/21/85.

24 Q What is your race?

25 A I'm African-American.

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1 A So Flowers, Stein, David Rathy.

2 Q Can you spell that for madam court
3 reporter?

4 A Sure. It's David traditional D-A-V-I-D
5 and last name R-A-T-H-Y. Let's see Cameron Brown,
6 C-A-M-E-R-O-N, last name Brown. There was one more.
7 I can't recall -- I can't recall what his name is.

8 Q Robert Kean?

9 A Did I say Robert Kean already? Yes.
10 Robert Kean.

11 Q That's five individuals. Do you recall
12 anyone else that you were involved since 2019 to the
13 present in putting that employee on PIP?

14 A There was one more employee. I can't
15 recall his name. He's still actually with us. He
16 is in Fletcher. I can't recall -- remember his
17 name.

18 Q Did you say Fletcher?

19 A He's in Fletcher, North Carolina. A
20 different facility.

21 Q So Mr. Flowers, Stein, Rathy, Brown and
22 Kean all at Electrolux headquarters?

23 A No. All except for Rathy.

24 Q Are Mr. Rathy, Mr. Brown still employed by
25 Electrolux?

1 A Yes.

2 Q What did you do -- tell me everything you
3 did to try to understand the change in Mr. Flowers'
4 performance evaluations.

5 A So prior to even placing him on the PIP,
6 having a discussion with his current manager, Kopal,
7 and understanding the challenges she was having. I
8 also had a conversation with Brenda, who was his
9 former manager at a point, to understand, you know,
10 his history and just to discuss the performance
11 issues that he was currently having.

12 And Brenda informed me that they were
13 not -- they were not new issues. She had
14 experienced some of the performance challenges in
15 the past prior.

16 Q What performance challenges are you
17 testifying about that Brenda indicated she had
18 experienced prior?

19 A The specifics, I don't recall what the
20 specifics were, but I do know that she stated she's
21 had, you know, coaching moments with him, in that,
22 you know, again, some of the things that Kopal was
23 speaking about she was having challenges with.
24 Specifics, I can't recall. Some of them are
25 outlined in the PIP, but Brenda would have those

1 A Correct, no.

2 Q At any point, did you learn that

3 Mr. Flowers has a disability?

4 A After he was terminated, yes.

5 Q How is it you learned that Mr. Flowers had
6 a disability or has a disability?

7 A Yes, through this case.

8 Q Were you aware that Mr. Flowers had some
9 illnesses requiring hospital stays and some
10 emergency leave?

11 A Yes.

12 Q How is it you became aware that
13 Mr. Flowers had required some hospital stays and
14 emergency leave?

15 A That was after this case, I found out that
16 he had previously, you know, needed hospitalization.
17 Other than that, it was sick days. I didn't know it
18 was due to any kind of disability or serious medical
19 need.

20 Q So I think your testimony -- I understand
21 it -- after the lawsuit was filed you learned about
22 Mr. Flowers' disability; however, you were aware
23 that Mr. Flowers needed emergency leave, sick leave
24 while he was still employed with Electrolux before
25 he was terminated, correct?

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1 A Emergency -- sick leave -- well, yes, he
2 was -- yes, did take off from, you know, PTO or
3 feeling ill, yes, sick leave, correct.

4 Q Did you do anything at any point in time
5 to determine whether Mr. Flowers needed an
6 accommodation related to his disability?

7 A No, because I didn't know he had one.

8 Q But you are aware that Mr. Flowers had to
9 take several medical days off in a row right before
10 his termination, correct?

11 A I didn't know that they were due to
12 medical reasons. I knew that he did take days from
13 being sick. That could be a cold, a cough or, you
14 know, I did not -- I wasn't aware that it was due to
15 a medical reason, no.

16 Q But you were aware that he had had
17 emergency leave in the past requiring him to take
18 time off from work, correct?

19 A Correct.

20 Q Did you --

21 MR. ALEXANDER: I apologize. I've got
22 somebody at the front door and no one else is
23 home. Could we take just about a 30-second
24 break and I'll be right back?

25 MS. GESSNER: Let's make it five minutes.

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1 That's good.

4 BY MS. GESSNER:

5 Q As a reminder, Ms. Sinclair, you're under
6 oath. Do you understand that?

7 A Yes.

8 Q Prior to participating in --
9 well -- strike that.

10 I think you indicated earlier you called
11 Fisher Phillips after the decision had been made to
12 terminate Flowers but before he was informed; is
13 that correct?

14 A Correct.

15 Q Did you discuss -- did you -- were you
16 concerned at all that -- with Mr. Flowers being
17 absent just prior to his termination that there may
18 be some legal risk?

19 A No.

20 | Q Why?

21 A Because he was only out at that time, I
22 think, for maybe a couple of days. So, yeah, there
23 weren't any concerns -- yeah, there weren't any
24 concerns because of that. It was -- yeah.

o Did you ask -- did you discuss with anyone

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1 whether or not the performance improvement plan
2 should be extended in light of Mr. Flowers' need for
3 leave prior to his termination.

4 A No, because I wasn't aware he had a need
5 for leave prior to the termination, or at any, yeah,
6 point, during the PIP.

7 Q At any point during the PIP, you weren't
8 aware that he needed medical leave?

9 A That he needed to take official leave?
10 No. I thought he was out just due to, again, being
11 sick. I didn't know whether that sick was a cold.
12 I didn't know the extent of what his being out was.
13 I think even at one point, Kopal informed me it was
14 due to back pain. So I wasn't aware that it was due
15 to him needing a leave for an extended amount of
16 time at any time.

17 Q Did you ever have a single conversation
18 with Mr. Flowers regarding his need for leave to
19 tend to his medical condition?

20 A I did not because his attendance wasn't
21 never an issue that we -- it was never a problem.

22 Q So, again, I'm going to show you a
23 document just to have a clear record here. So give
24 me just a second.

25 A Okay.

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1 Q Do you see a document on your screen?

2 A Yes.

3 Q I've marked this document as Bates Number
4 67180 as Exhibit 1 to your deposition, and it
5 appears to be an email that Kopal Rawat sent on
6 October 1 to Jobbie Flowers, Ramesh, Ravi, Robbie,
7 Roy --

8 (Exhibit Number 1 was identified.)

9 A Sertac.

10 Q -- indicating that you are the HR BP as of
11 10/1/2019; do you see that?

12 A Yes.

13 Q I know you're not copied on it, but I
14 think I you already testified. That was the first
15 day in which you became the HR business partner for
16 Kopal's team; correct?

17 A Officially, yes.

18 Q And again, you've testified you didn't do
19 any independent investigation into any records
20 regarding Jobbie Flowers prior to October 1, 2019 to
21 find out what had been going on with him before you
22 took over as HR BP; is that right?

23 A That's correct.

24 Q Other than the one conversation you had
25 with Brenda Simpson about his past performance, you

1 A Surprised that he thought he was being,
2 you know, treated differently because of race or
3 because the PIP was given because of his race. And,
4 you know, the mention of his disability -- because
5 again, we had no idea that he had a -- that he had
6 diabetes and, you know, also because there was no
7 mention of his race during or after or, you know,
8 before this, before receiving that, his attorney
9 letter.

10 Q When you say that, again, only to you, is
11 that correct, any time between October -- any time
12 prior to October 1, 2019, you never availed yourself
13 to Mr. Flowers to have a one-on-one conversation,
14 correct?

15 A Well, we didn't have one-on-one
16 conversation, but even during the PIP meeting and
17 simply as he emailed me regarding his personnel
18 file, if he would have reached out and said, I want
19 to have a meeting with you, they I would have
20 definitely made time to meet with him.

21 Q You never went back to determine whether
22 Mr. Flowers had asked for a mediator and had
23 expressly complained about the way he was being
24 treated by Ms. Rawat before the PIP or after, did
25 you?

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1 where you're copied and Brenda's copied to Jobbie
2 that says: Since last monthly follow up,
3 December 9th, we have missed two weeks due to
4 company holidays or your vacation/sick leaves. For
5 this reason, your evaluation period has been
6 extended, and I will be scheduling the second month
7 follow up on January 22.

8 Do you see that?

9 A Yes.

10 Q It doesn't say anywhere in here that
11 Brenda and Naomi have agreed to extend the follow
12 up, does it?

13 A It does not.

14 Q In fact, it says that she, Ms. Rawat, has
15 agreed to extend, correct?

16 A I don't see where she says she has
17 extended. It just says "your evaluation period has
18 been extended and I will be scheduling the second
19 month followup meeting."

20 Q And "I will be scheduling the second month
21 followup on January 22."

22 Do you see that last phrase?

23 A I do, yes.

24 Q Again, does Exhibit 12 in any way refresh
25 your recollection of the conversation you had on

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1 December 9th was about Jobbie?

2 A You mean the Skype conversation between
3 Kopal and I?

4 Q Yes, ma'am.

5 A It's likely -- I don't remember the actual
6 meeting, what took place or what led her to ask me
7 to go over the PIP. I don't remember, again,
8 verbatim. I don't remember the specific meeting.
9 But again, it's very likely that that was the
10 scenario that presented itself is the reason why she
11 asked me to review the PIP again with him.

12 Q And you're aware that Kopal and Jobbie had
13 one-on-ones other than these monthly meetings,
14 correct?

15 A Correct.

16 Q You never sat in on any of those
17 one-on-ones to determine or observe how Kopal
18 conducted herself in these one-on-one meetings with
19 Mr. Flowers, did you?

20 A I did.

21 Q You did?

22 A I did sit in one, yes, I did.

23 Q When did you sit in a one-on-one meeting
24 with Kopal and Jobbie?

25 A I believe it was in January. It was in

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1 anything to review any of the chronology of events
2 that happened prior to you taking on HR business
3 partner by email, correct?

4 A By email, no.

5 Q Only spoke to Kopal?

6 A And Brenda.

7 Q You never reached out to Jobbie to
8 get -- to have a one-on-one just with him to
9 understand his perspective as to what may have been
10 going on prior to you becoming the HR business
11 partner, correct?

12 A Correct.

13 Q He actually sent you the email asking for
14 his employee file, only copied you in which you had
15 an open opportunity to invite him to sit down and
16 talk and you didn't ask him to; is that true?

17 A Well, I did ask him to let me know if
18 there were any issues. But again, just as that
19 email was sent asking for that, my calendar was
20 open, so he could have put time on my calendar to
21 talk or suggested it, similar to how it was
22 suggested in the past with Alexa.

23 Q You, at no point, made any effort
24 whatsoever to schedule time with Jobbie to speak
25 with him his experience with Rawat, did you?

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1 Q To the urgent care; do you understand
2 that?

3 A Yes.

4 Q And on Exhibit 14, the very next day on
5 January 14th, Mr. Flowers was out sick after having
6 to go to urgent care, the evening before; do you see
7 that?

8 A Yes.

9 Q You don't recall whether you knew in
10 realtime this was going on or not; is that true?

11 A That's correct.

12 Q I'm going to show you what's been marked
13 as Exhibit 16 which reflects another email where
14 Mr. Flowers was out sick on January 15th. Do you
15 see that as well?

(Exhibit Number 16 was identified.)

17 A Yes.

18 Q He was out from the 13th through the 15th.
19 Were you aware that Mr. Flowers had had a medical
20 event requiring to be out these three days?

21 A It's likely. I can't recall. Kopal may
22 have reached out and informed me. But again,
23 usually managers don't, unless it goes beyond that
24 three-day period. But so she.

25 O Even an employee that you're aware has a

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1 January 16, 2020 because he had just taken three
2 medical days?

3 A There wasn't a need to do anything, again,
4 based on the one-on-one that we had with him. It
5 was pretty evident that, you know, how the progress
6 of his PIP or the outcome, what it would be. So it
7 was -- no need to look into this further or about
8 his days being out of the office, because again, it
9 wasn't -- it wasn't to the point where he needed to
10 request an official leave of absence because he had
11 only been out of the office three days, and he
12 didn't express the need to be out longer or he
13 wasn't out longer even if he didn't express the need
14 for it.

15 BY MS. GESSNER:

16 Q So let me make sure I understand. Even
17 though you knew that Mr. Flowers had a disability,
18 your testimony is that you put your head in the sand
19 and pretended that he didn't take the three days off
20 and even do anything to make sure he received FMLA
21 paperwork or any type of paperwork following these
22 three days even after Mrs. Rawat came to you with a
23 writeup just the day following?

24 A Incorrect. I mean, he had already had the
25 number for UNUM, he had been provided that to his

1 A I'm aware, yes.

2 Q So you say you meet with him after, but
3 the date of the email regarding the plan doc is on
4 January 16, correct?

5 A Again, he had taken vacation or had leave.
6 So whether it was that specific time where he took
7 the days off or the vacation, sick days, not sure.
8 Whether it was before, not sure. There had been a
9 number of, you know, times where he had taken
10 vacation or, you know, a couple days of leave, you
11 know, in and out of the office, sick time. So --
12 but it was somewhere around there.

13 Q Okay. What do you recall about this
14 one-on-one meeting that you so vividly remember
15 attending but don't remember when it was?

16 A Yeah, I recall -- and the reason why is
17 it's rare that an employee, you know, is questioned
18 by their manager, specifically in this case he was
19 asked about what he had been working on, what
20 projects, what he had been completing throughout
21 that week, and his response stood out to me because,
22 you know, he kind of had a smirk, and he stated that
23 he had been checking some emails, and that he
24 completed one assignment. And I wasn't really
25 familiar with the length of time that it took to

1 complete whatever that assignment was, so I remember
2 asking, you know, Okay. Well, how long does it
3 usually take to complete this assignment that he's
4 stating he's worked on for the past three or four
5 days? And the time period that Kopal responded
6 with, it was not even a half a day worth of work.

7 And so, you know, again, that stood out to
8 me, that situation because I said, Okay. We have an
9 employee that is on a performance improvement plan
10 and is not able to at least try to muster up some,
11 you know, reason as to why he hasn't been working
12 for a few days while he's at work but not
13 performing, it's quite unusual.

14 And then, again, at the end, as Jobbie
15 always did, he wrapped it up in a positive way,
16 stating -- you know, he just had a very positive
17 attitude at the end of it.

18 And Kopal was very serious in delivering
19 the message to him, and it was just a disconnect
20 there by -- it was a disconnect there. So like I
21 said, again, that's memorable because things like
22 that usually don't happen, and that stood out to me.

23 Q And you did testify just a few moments ago
24 that this meeting occurred after Mr. Flowers had
25 been out of the office on medical leave, correct?

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1 A I don't know if it was medical leave or
2 vacation.

3 Q Again, you are unaware of whether
4 Mr. Flowers took any vacation in January of 2020,
5 correct?

6 A I don't monitor -- correct, because I
7 don't monitor vacation or leave unless it's to the
8 point where it is, you know, it's brought to my
9 attention as a salaried exempt employee. He's
10 allowed -- like any employee, allowed to take up to
11 three days of leave without me being informed.

12 Q You were aware he was out of the office on
13 a medical leave from the 13th through the 15th of
14 January, correct?

15 A I guess when you say "medical," to me I
16 think of -- I was aware he was sick, but I didn't
17 know that it was a medical situation, medical leave.

18 Q Does everyone who's sick go to urgent
19 care?

20 A Everyone who's sick, no.

21 Q Isn't urgent care for urgent illnesses?

22 A Yeah, could be.

23 Q You're aware that Mr. Flowers went to
24 urgent care on the 13th of January, correct?

25 A Correct. Again, I went to urgent care for

1 a bee sting. So --

2 Q You don't have diabetes, do you?

3 A I don't.

4 Q When was the decision made to terminate
5 Mr. Flowers?

6 A After that one-on-one.

7 Q So whatever date the one-on-one you say
8 you attended was when the decision was made to
9 terminate?

10 A Is when Kopal and I had a discussion
11 following that meeting, you know, the next step
12 being termination.

13 Q Again, my question is very specific. When
14 did Electrolux make the decision to terminate Jobbie
15 Flowers?

16 A It had to be within -- again, the
17 discussion begun after that meeting. The final
18 decision was made, maybe within the next day or two,
19 once, you know, Brenda, Kopal and I met to discuss
20 what had taken place up until that point.

21 Q Again, during this one-on-one that you
22 recall, Mr. Flowers didn't raise his voice, correct?

23 A No, he did not.

24 Q He didn't stomp out of the meeting,
25 correct?

1 A No, he did not.

2 Q He didn't refuse to do any work, did he?

3 A No.

4 Q Did you contact Fisher Phillips prior to
5 Mr. Flowers being terminated?

6 A Yes.

7 Q Do you recall when?

8 A Within, I would say, maybe the week of or
9 the week prior to him being terminated.

10 Q Why did you contact Fisher Phillips?

11 A Just a process I normally take to walk
12 through, you know, where we are, what led to this
13 decision and the progress of the PIP and just so
14 that, you know, they're in the know as to what has
15 taken place.

16 Q Again, I think you testified a couple
17 hours ago but I want to be clear, the PIP is the
18 first step in the process and it's your practice to
19 always contact Fisher Phillips before you put
20 someone on a PIP; is that correct?

21 A Yes, 99 percent of the time, yes.

22 Q Were you present at the meeting when
23 Mr. Flowers informed you he was being terminated?

24 A Yes.

25 Q Who else was present?

1 A Brenda Simpson and Kopal.

2 Q And it is true that the performance
3 improvement period was cut short for Mr. Flowers;
4 isn't that true?

5 A That's correct.

6 Q Why?

7 A Because there wasn't progress that was
8 being made. Yeah, it wasn't any progress being
9 made.

10 Q According to Kopal, correct?

11 A Correct.

12 Q Once you received a copy of the EEOC
13 charge filed by Mr. Flowers, did you in any way --
14 do you participate in any internal interviews of
15 witnesses regarding Mr. Flowers?

16 A No.

17 Q Did any other employee ever complain to
18 you about Mr. Flowers?

19 A No.

20 Q Isn't it true that all of the feedback you
21 are aware of regarding Mr. Flowers' performance came
22 directly from Ms. Rawat?

23 A And Brenda Simpson, yes.

24 Q And Ms. Simpson's evaluation of him was
25 all before Ms. Rawat; is that correct?